

REMARKS/ARGUMENTS

1. INTRODUCTION

Claims 58-75 are pending in this application, with claims 61, 64, and 71-75 being withdrawn from consideration. Applicants respectfully request further examination and reconsideration of the application in view of the following arguments.

2. REJECTION OF CLAIMS UNDER 35 U.S.C. § 103(A)

Claims 58-60, 62-63 and 65-70 stand rejected as being unpatentable over Blatz (U.S. Pat. No. 5,328,154) in view of Extine (U.S. Pat. No. 4,108,421). Applicants respectfully submit that the rejection is improper because the Examiner has failed to establish a prima facie case of obviousness with respect to these claims.

“Patent examiners carry the responsibility of making sure that the standard of patentability enunciated by the Supreme Court and by the Congress is applied in each and every case.” MPEP § 2141 (emphasis in original).

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations.

MPEP § 2143. Applicants submit that the Examiner has failed to establish a prima facie case of obviousness with respect to claims 58-60, 62, 63, and 65-70, because there is no suggestion or motivation in the art to combine the teachings of Blatz and Extine.

“It is improper to combine references where the references teach away from their combination.” MPEP § 2145 X.D.2 (citing *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983)). The Examiner states that “Elements 30, 36 [of Extine] is a positioning

restraint with engaging pockets on a lower surface and a curvilinear ramp shaped obstruction on the upper surface at an end thereof.” The Examiner further states that “[t]he positioning restraint 30, 36 is removably received on a first planar body 26 having projections on the upper surface such that the positioning restraint is stacked on the first planar body.” The Examiner asserts that “[t]o stack a vehicle positioning restraint such as a vehicle wheel positioning restraint 30, 36 of Extine on the Blatz upper surface would have been obvious for one skilled in the art at the time the invention was made in view of the disclosure of Extine.” Applicants respectfully submit that, on the contrary, one of ordinary skill in the art at the time the invention was made would not have been motivated to combine the teachings of Blatz and Extine, because Extine teaches away from such a combination.

As an initial matter, Applicants note that element 36 of Extine is not a wheel positioning restraint, but instead comprises down-turned hooks at the front end of the ramp (26), which engage lugs (20) on the sides (18) of vertical front brackets. (Col. 2, lines 8-16). Applicants presume that the Examiner considers elements 30, 34 of Extine to be a wheel positional restraint.

Applicants respectfully disagree with the Examiner’s assertion that the positioning restraint of Extine (identified by the Examiner as 30, 36) is “removably received” on a first planar body 26. On the contrary, Extine teaches a “tire engaging member” (34) which is “fixed” to the end of a ramp (26). (Col. 2, lines 13-14). Accordingly, there is no suggestion in Extine that the tire engaging member (34) is removably received on the ramp (26). Moreover, Extine teaches use of a single leveling unit (10) which does not cooperate with other “stands.” Extine explains that the leveling unit includes “a wood or plastic stand 12 having studs 14 or other ground-engaging means on its bottom” (Col. 1 line 68 – Col. 2., line 1). As applicants noted in the parent application, insofar as the leveling unit of Extine includes ground-engaging studs, it clearly teaches away from employing the device with additional ramps or units, since the ground-engaging studs would be inoperable.

In contrast, Applicants’ second body with its obstruction, is removable from the first planar body of the wheel support leveler assembly. Moreover, both the first planar body and second body of Applicants’ wheel support leveler include engaging pockets to matably receive

corresponding projections of other similar first planar bodies, rather than being limited by ground-engaging studs.

Because there is no suggestion or motivation in the prior art to combine the teachings of Blatz and Extine, Applicants respectfully submit that the rejection of claims 58-60, 62, 63, and 65-70 under 35 U.S.C. § 103(a) is improper. Accordingly, Applicants respectfully request that the rejection be withdrawn.

4. CONCLUSION

A genuine effort to resolve all issues has been made. For at least the above cited reasons, all claims pending in this Application are now believed to be allowable. Applicants respectfully request that any questions or concerns be directed to Applicants' undersigned attorney.

Respectfully submitted,

/Adam B. Strauss/
Adam B. Strauss
Reg. No. 43,167
DYKEMA GOSSETT PLLC
39577 Woodward Avenue, Suite 300
Bloomfield Hills, MI 48304
(248) 203-0764
ipmail@dykema.com
Customer No. 26127
Attorney for Applicant(s)

Date: August 16, 2006